

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON NATURAL RESOURCES AND COMMERCE

Call to Order: By **CHAIRMAN JEFF PATTISON**, on February 10, 2003
at 8 A.M., in Room 317-C Capitol.

ROLL CALL

Members Present:

Rep. Jeff Pattison, Chairman (R)
Sen. Bill Tash, Vice Chairman (R)
Rep. John Musgrove (D)
Sen. Linda Nelson (D)
Rep. Rick Ripley (R)
Sen. Debbie Shea (D)

Members Excused: Sen. Edward Butcher (R)

Members Absent: None.

Staff Present: Gary Hamel, Legislative Branch
Elaine Olsen, Committee Secretary
Doug Schmitz, OBPP

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed. Tape time stamp refers to the material which follows

Committee Business Summary:

Hearing & Date Posted:

Executive Action: Department of Environmental Quality
Budget

All votes are voice votes unless otherwise indicated.

{Tape: 1; Side: A; Approx. Time Counter: 1 - 7}

CHAIRMAN PATTISON said he had met with Director Sensibaugh to discuss the Department budget. Some of the proposed decision packages(DP) have been combined or withdrawn.

Jan Sensibaugh, Director, Department of Environmental Quality(DEQ), said the Department was withdrawing DPs number 40, 41, 45, 54, and 78. Each of these DPs contained requests for new FTE. DP73, a request for a new leased vehicle, was also withdrawn. DP81 is being withdrawn. It is a request for \$300,000 for legal contracts with funding from the Environmental Quality Protection Fund(EQPF), which is one of the Resource Indemnity Trust(RIT) funds.

{Tape: 1; Side: A; Approx. Time Counter: 7 - 11}

SEN. NELSON asked how many FTE were contained in the withdrawn DPs. **Director Sensibaugh** said a total of 7.25 FTE had been withdrawn.

SEN. SHEA asked about DP82. **Director Sensibaugh** said that had been withdrawn.

Doug Schmitz asked why the DPs had been withdrawn. **Director Sensibaugh** replied that the Department felt that the work could be done with existing FTE.

CHAIRMAN PATTISON asked for a motion to accept the Department's proposal to withdraw DPs 40, 41, 45, 54, 73, 78, 81, and 82.

Gary Hamel said that no motion was needed. **CHAIRMAN PATTISON** said the DPs would be withdrawn by the lack of a positive action being taken.

{Tape: 1; Side: A; Approx. Time Counter: 11 - 16}

PL 1, 9, 29, 31, and 39

Director Sensibaugh said the Department had grouped DPs that they could "live with" if the proposals were approved without the General Fund. Those DPs are numbers 1, 9, 29, 31, and 39. **Gary Hamel** said PL1 was in the Central Management program and was for the Board of Environmental Review adjustments; PL9 is in Program 20; PL29 is solid waste base adjustment; PL31 is a hard rock base adjustment; and PL39 is a water permits base adjustment.

Motion/Vote: SEN. NELSON moved that APPROVAL OF PL1, PL9, PL29, PL31, AND PL39 WITH NO GENERAL FUNDS DO PASS. Motion carried unanimously.

PL3

Director Sensibaugh addressed the present law adjustments where the General Fund is extremely important to the program. PL3 is the base adjustment for the attorney pool. The Department has already removed \$5,000 of the General Fund from the request. PL4 is the budget adjustment for the Research Protection and Planning Bureau. That adjustment and the base adjustment for the Monitoring Data Management Bureau, PL6, are the programs that are responsible for the Total Maximum Daily Load(TMDL)program. The General Fund money leverages a lot of federal money.

Gary Hamel asked the Committee if they intended the reductions in General Fund to be applied against the total unspecified reduction. The Committee confirmed that was their intent.

{Tape: 1; Side: A; Approx. Time Counter: 16 - 19}

Motion/Vote: SEN. SHEA moved that ACCEPT PL3, PL4, AND PL6 DO PASS. Motion carried unanimously.

Director Sensibaugh said that the DPs are for base adjustments that do not contain General Funds. When the "snapshot" of the actual expenses in the base year was taken, it reflected vacancy savings. These DPs would bring the base back up to appropriated levels. The adjustments do not contain General Funds.

PL8, PL11, and PL37

Gary Hamel clarified that the Department is seeking approval of all three present law DPs. All three contain a request for a decrease in General Fund.

{Tape: 1; Side: A; Approx. Time Counter: 19 - 26}

Motion/Vote: SEN. NELSON moved that PL8, PL11 AND PL37 DO PASS. Motion carried unanimously.

DP22

Director Sensibaugh said that responsibilities under the Montana Environmental Policy Act(MEPA) have been moved into the Director's office necessitating the transfer of funding from Program 50 into Program 10. DP22 is a base adjustment for MEPA responsibilities in Program 50 and is being withdrawn.

DP23

Director Sensibaugh said that DP23 is a request for authority to spend State Special Revenue acquired through applicant fees. Because the number and size of projects vary, a \$1 million biennial authority has been appropriated in the past. DP23 would return the State Special Revenue to that amount.

DP201

Director Sensibaugh said that DP201 would eliminate the funding from Program 50, and NP200 would place those funds into Program 10, the Director's office. Because of some program cuts, \$153,000 is being taken out of Program 50, but only \$123,000 is being transferred to Program 10.

DP200

CHAIRMAN PATTISON asked if one FTE had been removed from DP200. **Director Sensibaugh** said that two FTE are on staff for the MEPA projects. Fees are charged for the EIS but not for the many environmental assessments(EA)that are done. The two FTE funded by General Fund work on EA. One FTE is hired for an occasional specific project, and that FTE is funded by the fee income.

{Tape: 1; Side: A; Approx. Time Counter: 26 - 28}

REP. RIPLEY asked about the total numbers of FTE. **Director Sensibaugh** said the total number is three, one of which is vacant until an EIS project comes forward.

SEN. SHEA asked if the position remains vacant unless a project comes up. **Director Sensibaugh** stated that was correct. **SEN. SHEA** commented that considering the State's effort to work with natural resource projects, this position was very important.

Motion/Vote: SEN. SHEA moved that DP23 AS A BIENNIAL APPROPRIATION NP200, DP201 DO PASS. Motion carried unanimously.

{Tape: 1; Side: B; Approx. Time Counter: 1 - 5}

REDUCTION IN FTE

Director Sensibaugh said that a reduction in FTE will make it more difficult for the Department to meet its mandate. The Department believes that under the alternative pay plan, retention of qualified employees will result in fewer hiring and training expenses with a resultant reduction in the cost for personal services.

REP. MUSGROVE asked about the elimination of out-of-state travel. **Director Sensibaugh** said program directors felt the elimination of out-of-state travel would not cripple the programs.

Motion/Vote: SEN. SHEA moved that REDUCTION OF EIGHT FTE DO PASS. Motion carried unanimously.

{Tape: 1; Side: B; Approx. Time Counter: 5 - 14}

DP21, DP34

Director Sensibaugh addressed a package of biennial appropriations DPs designed to give the Department spending authority to use funds to do reclamation and cleanup. DP21 is a request for authority to spend the \$20.8 million forfeited Pegasus bond for mine reclamation at the Pegasus site.

The 2001 Legislature authorized DEQ to sell up to \$8 million in bonds for reclamation. DP34 is a request is for spending authority from additional bond sales that may become necessary. To date, \$2.5 million in bonds have been sold. All of the projects have involved water quality issues.

DP35

DP35 is a request for \$4 million in spending authority which will allow the Department to spend funds on mine reclamation projects from a one-to-one match with the Bureau of Land Management (BLM) and the United States Forest Service (USFS).

PL79

PL79 is a request for \$125,000 of funding for the Environmental Rehabilitation and Response account. The Department uses these funds to help local governments and small projects if there is absolutely no other source of funds to do clean up.

CHAIRMAN PATTISON asked if the appropriations should be one-time-only and restricted. **Director Sensibaugh** said that would be fine with the Department.

DP21

Gary Hamel said DP21 would end up being about \$30.2 million in biennial appropriation. This would allow the Department to spend the bond forfeiture. The request is for restricted and biennial. DP34 is the Hard Rock Debt Service base adjustment which is authority to spend funds from the sale of bonds.

Motion/Vote: SEN. NELSON moved that DP21, DP34, DP35, PL79 ALL RESTRICTED AND BIENNIAL DO PASS. Motion carried unanimously.

{Tape: 1; Side: B; Approx. Time Counter: 14 - 21}

DP88

Gary Hamel said that DP88 is a request to restore spending authority for a one-time-only biennial appropriation of \$500,000 from the Federal One-Stop Grant. The grant was given to the Department to consolidate data, catalogue regulated entities, and provide for data sharing with other government agencies and the public. Given the nature of the grant, the Committee may wish to designate the appropriation as one-time-only and biennial.

Director Sensibaugh said the database activities are being phased in.

Motion/Vote: SEN. NELSON moved that DP88 ONE-TIME-ONLY DO PASS. Motion carried unanimously.

{Tape: 1; Side: B; Approx. Time Counter: 21 - 24}

DP8013

Gary Hamel said DP8013 is a request for a funding switch from General Fund to State Special Revenue for a legal defense and bankruptcy fund. The proposal would allow the Department to deposit penalty revenue from numerous environmental laws administered by the agency into a State Special Revenue account. The Department requested the DP be made contingent on SB233.

Motion/Vote: SEN. TASH moved that DP8013 CONTINGENT ON PASSAGE OF SB233 DO PASS. Motion carried unanimously.

{Tape: 1; Side: B; Approx. Time Counter: 24 - 30}

PROPRIETARY RATE

Gary Hamel said the Department is requesting a 23 percent maximum proprietary rate. This is one percent lower than the rate for the last biennium.

{Tape: 2; Side: A; Approx. Time Counter: 1 - 3}

Gary Hamel continued, stating that by approving the rate, the Committee would be agreeing to fund and pay for all the DPs which are addressed through HB76.

Motion/Vote: SEN. SHEA moved that THE MAXIMUM PROPRIETARY RATE OF 23 PERCENT DO PASS. Motion carried unanimously.

{Tape: 2; Side: A; Approx. Time Counter: 3 - 9}

PL43

Gary Hamel said that PL43 is the TMDL supplemental grant, a request for authority to spend Environmental Protection Agency(EPA) grant funds to assist meeting court-mandated TMDL schedules. The EPA is expected to direct \$370,000 of funding toward the completion the court-mandated TMDL schedule for Montana. There are no funding match requirements. The grant will fund one FTE with the majority of the funds to be used for contracted services because the work-load exceeds the capabilities of a fully-staffed program.

SEN. TASH asked if the Department had been able to firm up any collaborative effort with the University system. **Director Sensibaugh** said that she had spoken to an official from Montana State University(MSU), and a collaborative effort would be worked out.

CHAIRMAN PATTISON asked if the DP should contain the collaborative language. **Gary Hamel** said that the language could conflict with existing law. A directive could be included to encourage the Department to pursue the collaborative effort. The Committee could direct the Department to provide some sort of interim report during the next session. **CHAIRMAN PATTISON** said it was his intent to make sure that the effort moved forward, and that future Committees were aware of this Committee's intent.

Director Sensibaugh said the Department is clear on the Committee's intent, and the agency will continue to work with MSU on the effort. The Department will prepare a report on the contracts that had been set up and the watersheds that are being addressed. **CHAIRMAN PATTISON** said that would be acceptable.

Motion/Vote: **SEN. TASH** moved that DP43 ONE-TIME-ONLY RESTRICTED DO PASS. Motion carried unanimously.

{Tape: 2; Side: A; Approx. Time Counter: 9 - 14}

DP60

Gary Hamel said that DP60 is a request for a biennial appropriations authority to spend funding that may become available through the Universal Systems Benefits Charge(USB). Any funds unspent by NorthWestern Energy or Montana Dakota Utilities(MDU) are allocated annually to DEQ to be used for qualifying public services.

SEN. TASH said it was his understanding that several bills are advancing as a package to address the USB, and any motion on this DP might require contingency language. **Tom Livers, DEQ,** said

language could be "contingent on an extension of a Universal Systems Benefits Charge."

Motion/Vote: SEN. TASH moved that DP60 BIENNIAL CONTINGENT ON THE EXTENSION OF THE UNIVERSAL SYSTEMS BENEFITS CHARGE DO PASS. Motion carried unanimously.

{Tape: 2; Side: A; Approx. Time Counter: 14 - 19}

NP62

Gary Hamel said that NP62 was a biennial request to add one FTE to provide technical assistance to community water and waste water systems. One FTE would be funded by federal funds for the 2005 biennium to administer EPA's State Tribal Assistance Grant (STAG).

Director Sensibaugh said this is an ongoing federal grant to provide technical assistance to water and waste water operators systems around the state to make sure that they comply with the federal regulations. The one FTE is the Department's response to the increased responsibilities added by federal government.

CHAIRMAN PATTISON asked OBPP if the funding in HB176 could be applied here. **Doug Schmitz** said he did not think that funding could be used in this area.

Motion/Vote: REP. RIPLEY moved that NP62 WITH FUNDING AS REQUESTED WITH THE REMOVAL OF THE FTE DO PASS. Motion carried 6-1 with REP. MUSGROVE voting no.

PL61

Gary Hamel said that PL61 is a language appropriation in HB2 in the amount of \$150,000 which provides a method to move the authority from federal funds to state, if federal monies are depleted. This language appropriation would provide for the administration of the State Revolving Fund loan programs. The language states: "The Department is authorized to decrease federal special revenue in the water pollution control and/or drinking water revolving fund loan programs and increase State Special Revenue money by a like amount within the special administration account when the amount of federal capitalization funds have been expended or federal funds and bonds proceeds will be used for other programs or purposes."

Doug Schmitz said this request is the same as the one approved for the Department of Natural Resources and Conservation (DNRC).

Motion/Vote: SEN. NELSON moved that PL61 LANGUAGE APPROPRIATION DO PASS. Motion carried unanimously.

{Tape: 2; Side: A; Approx. Time Counter: 19 - 25}

DP13

Gary Hamel began the Enforcement Division budget requests with DP13, a request for a base adjustment to restore FY02 authorized amounts in areas where increased expenditures are anticipated. The request is for \$71,120 in FY04 and \$77,005 FY05. Funding includes General Fund of about \$35,000 and \$38,000 each year of the biennium with the balance in state special and federal funding.

Director Sensibaugh said this request is a base adjustment. The Enforcement Division has been cut pretty severely. This funding is necessary for the division to do its job.

CHAIRMAN PATTISON asked for clarification on "indirect charges."

Director Sensibaugh said indirect charges are charged to personal services. When all the FTE are filled, the indirect charges associated with that position go back into the budget.

{Tape: 2; Side: A; Approx. Time Counter: 25 - 30}

CHAIRMAN PATTISON asked if the request for General Funds could be reduced and funding found from another source. **John Arrigo, Administrator, Enforcement Division DEQ**, said removal of the General Funds would tighten the operation, but some additional federal funds might be available.

Motion: SEN. NELSON moved that DP13 WITHOUT THE GENERAL FUND DO PASS.

Discussion:

Director Sensibaugh asked for federal authority to be added to the DP to replace the General Fund.

SEN. NELSON said she would add the authority for federal funds to her original motion.

Substitute Motion: SEN. NELSON moved that DP13 WITH GENERAL FUNDS REMOVED AND WITH THE ADDITION OF AUTHORITY FOR FEDERAL FUNDS DO PASS.

Discussion:

Director Sensibaugh said that the \$35,000 is a base adjustment, and the \$27,000 is an alternative pay plan adjustment. If the General Funds are removed, it amounts to a "double hit" for the Division. Taking the difference between the \$35,000 and the \$27,000 would remove the General Fund.

CHAIRMAN PATTISON asked **John Arrigo** if was he referring to the entire \$35,000 reduction when he said the division could do the job without the General Fund. **John Arrigo** said he was referring to the total amount, but as Director Sensibaugh had stated, it does amount to a double hit for the Division. Removing the difference between the two DPs would minimize the impacts of the funding reduction.

{Tape: 2; Side: B; Approx. Time Counter: 1 - 3.2}

Gary Hamel said that the difference in FY04 would be \$8,724 and \$11,688 in FY05.

Motion/Vote: REP. MUSGROVE moved that DP13 WITH REVISED NUMBERS OF GENERAL FUND OF \$8,724 IN FY04 AND \$11,688 IN FY05 WITH AUTHORITY TO SEEK FEDERAL REVENUES TO REPLACE THE GENERAL FUND DO PASS. Motion failed 3-4 with SEN. NELSON, SEN. SHEA and REP. MUSGROVE voting aye.

Motion/Vote: REP. PATTISON moved that DP13 WITH GENERAL FUNDS REMOVED WITH AUTHORITY TO SEEK FEDERAL FUNDS TO REPLACE THE GENERAL FUND DO PASS. Motion carried 4-3 with REP. MUSGROVE, SEN. NELSON, and SEN. SHEA voting no.

{Tape: 2; Side: B; Approx. Time Counter: 3.2 - 12}

DP8013

Gary Hamel said that DP8013, a reduction in Enforcement Division General Fund and a funding switch, is tied to SB233. The first \$55,000 in penalties collected under the Air Quality Act are to be deposited into the Alternative Energy Revolving Loan account. The Enforcement Division General Fund would be reduced by a like amount. A funding switch of \$20,000 for the biennium would take place from General Funds to EPA grant additional funds.

Director Sensibaugh said that SB233 is changing, and that she would request that this DP be tied to SB233. During the Special Session, Senator Cobb's bill took all the Air Quality Penalty money of about \$140,000 and put it into an Alternative Energy

Grant and Loan Program. Senator Cobb is purposing to amend SB233 to take the \$140,000, put it in the General Fund and appropriate the \$65,000 out of the General Fund for the Enforcement Division.

Doug Schmitz said it appeared appropriate to tie this DP to SB233. The earlier DP does not appear to relate to SB233.

Director Sensibaugh said there are two parts to SB233, and both of the DPs should be contingent on that proposal.

Gary Hamel said it was his understanding of the Department's request that DP8013 be tied to SB233. If SB233 passes, then this DP would not reduce General Fund by \$65,000. If SB233 does not pass, there would be a \$65,000 reduction in General Fund.

Director Sensibaugh confirmed that was correct.

Gary Hamel stated that if the Committee does attach this DP to SB233 and SB233 passes, this DP is moot, and there would be a \$65,000 increase in each year of the biennium in General Fund. If SB233 does NOT PASS, then this DP stays in effect, and the General Fund is reduced by \$65,000 each year. An alternative would be to pass the DP as is and revisit it after action is taken on SB233.

CHAIRMAN PATTISON stated it was his understanding that if the Committee passed DP8013 as it is now, the General Fund will be reduced by \$65,000, and that would allow the funding switch to take place. If contingency language attaching the DP to SB233 is adopted, nobody knows what the final effect will be.

Motion: REP. PATTISON moved that DP8013 WITH NO CONTINGENCY LANGUAGE DO PASS.

Discussion:

REP. MUSGROVE asked what would happen to DP8013 which contains the contingency language on page 67 of the Budget Book. **Gary Hamel** said the contingency language is for State Special Revenue only. The same situation could apply. The Committee could pass the DP as is and address any reductions later if they choose, or the Committee could remove that contingency through a motion.

Vote: Motion carried unanimously.

{Tape: 2; Side: B; Approx. Time Counter: 12 - 20}

PL53

Gary Hamel began the Remediation Division budget with PL53, a request for increased spending authority for \$345,000 of grant

carryover funds. The EPA is mandating that the funds for the Leaking Underground Storage Tank Program(LUST) be spent in the next biennium.

CHAIRMAN PATTISON asked how many people who are responsible for underground tanks are unwilling or unable to do the cleanup. **Sandi Olsen, Remediation Division Administrator, DEQ**, said that of the approximately 1,300 tank cleanup sites, about 20 are active in LUST cleanup. The funds are cost-recoverable under federal law. If someone is simply recalcitrant, the Department has the authority to recover the costs. Those monies become part of the carryover for additional projects.

CHAIRMAN PATTISON asked how it is determined that a person is able or unable to pay for the cleanup. **Sandi Olsen** said the determination is based on federal guidelines which authorize the Department to do cost recovery.

CHAIRMAN PATTISON asked if the \$345,000 was the total amount available. **Sandi Olsen** said that was correct. The Division follows the State contracting law for contract letting.

SEN. NELSON asked if a balance existed in the funds. **Sandi Olsen** said she would have to obtain that number. **SEN. NELSON** asked if the State is getting a handle on this problem as it seems like the State has been working on it for a long time. **Sandi Olsen** said that of the sites identified since the beginning of the program, approximately 62 percent are completed.

CHAIRMAN PATTISON asked if the funding would decrease since fewer sites are being identified. **Sandi Olsen** said that with the upgrades mandated in 1998, a backlog of cleanups became known. The solvency of the owners of those sites is not known.

Motion: REP. MUSGROVE moved that DP53 ONE-TIME-ONLY BIENNIAL DO PASS.

Discussion:

CHAIRMAN PATTISON asked if this is a ongoing, mandated, statutorily required process. **Sandi Olsen** said she knew that the State has the statutory authority to do the cleanup, but she was unsure if the process was statutorily required.

Vote: Motion carried 6-1 with REP. RIPLEY voting no.

{Tape: 2; Side: B; Approx. Time Counter: 20 - 23}

PL71

Gary Hamel said that PL71 was a request for database consolidation in the Technical Services Bureau in conjunction with long-term plans for conversion to Oracle. The request is for \$60,000 for one-time-only request.

Motion/Vote: REP. RIPLEY moved that PL71 ONE-TIME-ONLY RESTRICTED DO PASS. Motion carried unanimously.

{Tape: 2; Side: B; Approx. Time Counter: 23 - 30}

NP65

Gary Hamel said that NP65 was a request for authority to spend \$111,111 in federal EPA funding made available for cleanup of multiple abandoned service station sites along 1st Avenue South corridor in Billings.

Director Sensibaugh said the request is separate because the federal program is new. The federal government is targeting commercial areas for cleanup in an effort to get the areas back in commercial production. As a community comes forward with a proposal, DEQ will work with them to restore the properties.

{Tape: 3; Side: A; Approx. Time Counter: 1 - 3}

SEN. NELSON asked about a report on Petroleum Release sites that she had requested from DEQ. **Sandi Olsen** said she had a map of SEN. NELSON's area with information on the number of sites by county.

Motion/Vote: SEN. NELSON moved that NP65 RESTRICTED ONE-TIME-ONLY BIENNIAL DO PASS. Motion carried unanimously.

{Tape: 3; Side: A; Approx. Time Counter: 3 - 10}

CHAIRMAN PATTISON asked if other communities could find out about this program online. **Sandi Olsen** said that this was a pilot program, and a lot of private property is involved. The Department is trying to evaluate how effectively they can work with those individual landowners to accomplish the goal. That information will be used for future efforts. Quarterly financial reports are submitted to EPA as well as annual reports to EPA and the Director.

DP32

Gary Hamel said DP32 is a request by the Permitting and Compliance Division for a base increase in the Major Facility Siting Act administration. Also included is a reduction of

\$54,000 for a net General Fund reduction of \$37,888 and \$37,885 for FY04 and FY05.

Motion/Vote: SEN. NELSON moved that DP32 DO PASS. Motion carried unanimously.

PL33

Gary Hamel said that PL33 is a request for a base increase to restore 2002 authorized amounts to \$300,000 where increased expenditures are anticipated.

Motion/Vote: REP. PATTISON moved that PL33 BIENNIAL RESTRICTED DO PASS. Motion carried unanimously.

{Tape: 3; Side: A; Approx. Time Counter: 10 - 21}

DP42

Gary Hamel said DP42 is a request for \$240,000 in spending authority for additional federal state revolving funds to implement the federal Safe Drinking Water Act. The request for funding for three FTE and for increased expenditures for contracted services to provide on-site technical assistance and training for system operators.

Tom Livers, DEQ, said that the federal government allows part of the Drinking Water State Revolving Fund to be used for related public water supply activities. The federal government uses the program as a vehicle for the states to use a certain part of the funds for related activities. That is called a "set aside."

CHAIRMAN PATTISON asked if the money being set aside would diminish the funds used for drinking water supplies. **Tom Livers** said that any money placed in the set aside does diminish the amount of loan money available. DEQ does not have waiting list of unfunded loan applications. **CHAIRMAN PATTISON** commented that the small towns could put any amount of grant money to good use. **Tom Livers** said there are several financing programs for infrastructure programs. State agencies work together through an Interagency Task Force that assists in finding means of financing for communities. The State Loan Revolving Fund is usually the last piece of the funding accessed after grants have been obtained.

CHAIRMAN PATTISON asked if the three FTE are critical to the project. **Director Sensibaugh** said that EPA has graded the Department very poorly on this project because DEQ does not have enough people working with the communities to help them implement new regulations and requirements. The communities need funding

for their infrastructure but also for the management and monitoring required at the facilities. The FTE would be located in Helena, Billings and Kalispell in order to be onsite working with the community systems.

SEN. BUTCHER commented that this seems a way to create more bureaucracy. Maybe it would be advisable to have the federal government cut out some of these requirements.

REP. RIPLEY asked if the travel appropriation request was for the three new FTE only. **Director Sensibaugh** said that the Department expects the three people to be out in the field working onsite.

SEN. BUTCHER asked how many projects were out there. **Director Sensibaugh** replied that Montana has about 2,000 public water systems which includes restaurants and trailer courts in some cases. Some constituents require monthly monitoring while others require quarterly monitoring.

REP. RIPLEY asked what the rent was for. **Director Sensibaugh** said it was for the increased office space in Kalispell, Helena and Billings.

Motion/Vote: **SEN. SHEA** moved that DP42 DO PASS. Motion carried 6-1 with **REP. RIPLEY** voting no.

{Tape: 3; Side: A; Approx. Time Counter: 21 - 26}

DP46

Gary Hamel said that DP46 was a request for one-time-only spending authority of hazardous waste fees for hazardous waste contracted technical assistance. **Director Sensibaugh** said a large application is anticipated, and the funding will be spent only if that project comes forward.

Motion/Vote: **SEN. NELSON** moved that DP46 ONE-TIME-ONLY RESTRICTED BIENNIAL DO PASS. Motion carried unanimously.

DP47

Gary Hamel said that DP47 was a request for funding from the Drinking Water State Revolving Fund(SRF) set-aside grants and operator certification fees. The funding would be used for contracted services to update exams and study guides as part of the Operator Certification Program to certify operators of public water and wastewater systems.

Motion/Vote: **SEN. SHEA** moved that DP47 DO PASS. Motion carried unanimously.

{Tape: 3; Side: A; Approx. Time Counter: 26 - 30}

DP48

Gary Hamel said that DP48 was a request for authority to expend federal funding.

CHAIRMAN PATTISON asked for clarification on how this program differed from others which had been discussed. **Director Sensibaugh** said the program was specific to water and waste water operators in the community. EPA requires a lot of training and testing for water and waste water operator. The grant money is used to reimburse the operators for their training costs.

{Tape: 3; Side: B; Approx. Time Counter: 1 - 5}

SEN. TASH asked where the training was held. **Director Sensibaugh** said annual training is held at MSU with regional training in major cities across the state.

Motion/Vote: **SEN. NELSON** moved that DP48 DO PASS. Motion carried unanimously.

DP50

Gary Hamel said that DP50 was a request for increased spending authority to provide grants to counties for administration of local junk vehicle programs. The increase is equal to the increase in vehicles registered in Montana. The executive is requesting that the program be made permanent.

CHAIRMAN PATTISON asked if the request was for permanent funding last session. **Doug Schmitz** said if the request is made permanent, it will be included in the base next session.

SEN. TASH asked how successful the program has been. **Director Sensibaugh** said the program has been very successful. The counties do most of the work except for the enforcement of the junk vehicle yards that do not comply with the law. **SEN. TASH** asked what could be done to improve enforcement. **John Arrigo** said the Enforcement Division is limited to issuing an administrative order to require compliance. The Division has no administrative penalties so the Division must go to court to have a judge award penalties.

Motion/Vote: **SEN. NELSON** moved that DP50 PERMANENT DO PASS. Motion carried unanimously.

{Tape: 3; Side: B; Approx. Time Counter: 5 - 13}

DP51

Gary Hamel said that DP51 was a request to restore spending authority for the Abandoned Vehicle Reimbursement Program. The executive request is that the spending authority no longer be one-time-only.

Motion/Vote: SEN. NELSON moved that DP51 PERMANENT DO PASS.
Motion carried unanimously.

PL69

Gary Hamel said that PL69 is a request for biennial one-time-only spending authority of \$50,000 each year from the junk vehicle disposal fees for database maintenance and enhancements for the Enterprise-wide databases within the Waste Management Section.

Motion: REP. PATTISON moved that PL69 ONE-TIME-ONLY RESTRICTED DO PASS.

Discussion:

SEN. TASH asked about data linking across programs and Natural Resource Information System(NRIS). **Robin Trenbeath** said the system provides a lot information to NRIS, and the link does allow for geographic information to be supplied to the DEQ database.

REP. RIPLEY asked for the amount of the current allocation. **Judy Hanson, DEQ**, said that in 2002, \$160,000 was appropriated and in 2003, \$48,000 was appropriated. **Director Sensibaugh** said the program is being phased in so that funding for maintenance will be required.

CHAIRMAN PATTISON asked for clarification on the ultimate goal of the program and what would be needed to reach the goal. **Director Sensibaugh** said where divisions overlap they will be part of the Oracle Enterprise-wide database, but in some areas it is cost effective for the database to be independent.

Vote: Motion that PL69 DO PASS carried unanimously.

{Tape: 3; Side: B; Approx. Time Counter: 13 - 19}

PL70

Gary Hamel said PL70 is a biennial request for funding of \$148,862 in FY04 and \$148,861 in FY05 for database maintenance and enhancements for the Enterprise-wide databases within the Permitting Division. Funding would come from a variety of

sources including fees and EPA grants. He commented that some of the funding comes from RIT and that some maintenance would always be required by the database.

SEN. TASH asked about the \$27,000 of funding from the EPA PPG. **Director Sensibaugh** said that PPG refers to Performance Partnership Grant which comes from the EPA to assist with delegated programs. NRIS data is used when permit applications are reviewed.

CHAIRMAN PATTISON called for a motion on DP70, the Permitting and Compliance Division database maintenance contracts. No motion was brought forward.

(The Committee took no action on DP70.)

{Tape: 3; Side: B; Approx. Time Counter: 19 - 23}

PL80

Gary Hamel said that PL80 was needed to correct a technical error.

Motion/Vote: **SEN. NELSON** moved that DP80 DO PASS. Motion carried unanimously.

NP59

Gary Hamel said that NP59 was a biennial request for authority to implement water system security planning. **Director Sensibaugh** said that following the 09/11/00 terrorist attack, the security of public water supplies has become a very high priority. EPA has provided grants to the states for the hiring of personnel to assess the vulnerability of the public water systems and to provide technical assistance and training for the facility owners and operators.

Motion/Vote: **SEN. SHEA** moved that NP59 DO PASS. Motion carried unanimously.

{Tape: 3; Side: B; Approx. Time Counter: 23 - 30}

DP7029

Gary Hamel said that DP7029 was a request to reduce General Fund appropriation in the Solid Waste Program by \$40,000 each year of the biennium through a funding switch.

Motion/Vote: **SEN. NELSON** moved that DP7029 DO PASS. Motion carried unanimously.

DP7039

Gary Hamel said that DP7039 was a request to reduce the General Fund in the Water Permits Section by \$36,500 each year of the biennium through a funding switch.

Motion/Vote: REP. RIPLEY moved that DP7039 DO PASS. Motion carried unanimously.

NPXX

Gary Hamel said the request referred to as NPXX is a reduction in State Special Revenue of \$152,546 in each year of the biennium. A reduction in work-load has occurred as a result of a reduction in the number of petroleum releases.

Motion/Vote: SEN. NELSON moved that DP REFERRED TO AS NPXX DO PASS. Motion carried unanimously.

REP. MUSGROVE asked to revisit DP70.

Motion: REP. MUSGROVE moved DP70.

Discussion:

CHAIRMAN PATTISON said his concern on the DP was the use of RIT funds. **SEN. NELSON** said that was her concern also. **Director Sensibaugh** said the Department has requested a bill that will address the funding. If the HazWaste CERCLA and EQPL accounts are short, some money should become available to help with the administrative costs. The OBPP is assisting the Department with the Reclamation and Development account to find other funding sources if that shared account is too low.

CHAIRMAN PATTISON asked if the project would be possible if the RIT funding was removed. **Director Sensibaugh** said that was correct.

Motion/Vote: REP. MUSGROVE moved that DP70 WITH BOTH SOURCES OF RIT FUNDING REMOVED DO PASS. Motion carried unanimously.

{Tape: 4; Side: A; Approx. Time Counter: 1 - 4}

DP1, DP2, DP3

Gary Hamel said that the DP addressed as DP1 would remove \$5,000 each year of the biennium from the attorney pool operating costs. DP2 would eliminate one FTE and the associated operations costs in the amount of \$70,700 each year of the biennium from Program 20. DP3 would eliminate one FTE and decrease operating expenses

from the Major Facility Siting Act(MFSA) and Hard Rock Mining Bureau. General Fund would be reduced by \$208,094 in FY04 and \$269,606 in FY05.

{Tape: 4; Side: A; Approx. Time Counter: 4 - 7}

REP. MUSGROVE asked if the reduction in FTE would make the Department less effective. **Director Sensibaugh** said DP2 is in the Pollution Prevention Program which is not a mandated program. DEQ has not received significant applications in the MFSA, and the reduction in that program should not impair the Department's ability to do their job.

REP. RIPLEY asked how much the permitting process referenced in DP3 would be increased by the program reductions. **Steve Welch, DEQ**, said the process would be delayed but not significantly.

Motion/Vote: **REP. PATTISON** moved that DP1, DP2, DP3 DO PASS. Motion carried unanimously.

{Tape: 4; Side: A; Approx. Time Counter: 7 - 9}

Director Sensibaugh thanked the Committee for their attention and consideration. **CHAIRMAN PATTISON** thanked the Director for continuing to work with MSU on the TMDL project.

ADJOURNMENT

Adjournment: 12 P.M.

REP. JEFF PATTISON, Chairman

ELAINE G. OLSEN, Secretary

JP/EGO

EXHIBIT (jnh29aad)